

Remarks

Applicants respectfully request reconsideration of the present U.S. Patent application as amended herein. No claims have been amended or added. Thus, claims 1-26, 29-31 are pending, of which 1, 7, 13, 17, 25 and 29 are independent.

35 U.S.C. § 103(a)

Claims 1-26, 29-31 stand rejected as obvious in view of Schmidt (U.S. Patent No. 5991807) and Misra (U.S. Patent No. 6189146). Applicants traverse the rejections since there is no teaching or suggestion in Schmidt of the recited embodiments. In particular there is no teaching or even remote suggestion of the recited "electronic shopping cart" of claim 1 and the other independent claims (except claim 29), nor of the other limitations relating to creating a distribution package based on a shopping cart.

Given that the Office Action begins its analysis of Schmidt by saying there is no teaching of a very fundamental aspect of online shopping, namely selecting goods, with all due respect, it is submitted the analogies drawn to Schmidt simply make no sense. After this startling admission concerning Schmidt, the Action nonetheless continues on to force fit Schmidt onto recited embodiments to make it appear Schmidt teaches other recited limitations when in fact Schmidt does **not**. For example, a significant point of claim 1 and the other independent claims (except claim 29) is use of a shopping cart to define a distribution package for selected goods. The Office's admitted failure of Schmidt's teaching selecting goods, among other failures explored in previous responses, shows Schmidt is therefore incapable of rendering claimed embodiments obvious as suggested by the Office.

Schmidt is simply the wrong kind of reference to cite against the recited embodiments. The Action also incorrectly states "Schmidt et al. shows all of the limitations of the claims except for specifying selecting goods and the use of a 'public key'." This is not true since **nothing** in the discussion by the Office regarding Schmidt distinctly (or even impliedly) identifies where or how Schmidt teaches the recited electronic shopping cart of claim 1 and the other independent claims (except claim 29).

As is well understood, for the Office to support its rejections, the Office bears the burden of **distinctly** pointing out where in documents relied on **all** claim elements are taught or suggested. However, there is **no teaching** or hint thereof of the recited electronic shopping cart in Schmidt, and there is also no explanation of this lacking in the Office Action regarding how this limitation in the independent claims is taught by Schmidt. Consequently, it is submitted this failure of Schmidt alone renders the rejections improper. The suggested combination with Misra fails to overcome the limitations of Schmidt.

Regarding claims 5 and 6, there is no teaching in Schmidt of distributing physical goods. Schmidt is entirely related to network access to resources, none of which have any bearing on the limitations in claim 1 of an electronic shopping cart and selecting goods, nor on the combination with claim 5 or 6's limitation of physical distribution of goods. Even the most generous interpretation of Schmidt fails to suggest physical distribution of goods.

Claims 7, 17, 25 have roughly analogous limitations to claim 1 and it is submitted it is allowable for at least the same reasons as discussed above for claim 1.

Claim 13 has roughly analogous limitations to claim 1 and it is submitted it is allowable for at least the same reasons as discussed above for claim 1. However, it is specifically noted that claim 13 recites “creating the distribution package from the contents of the client-side electronic shopping cart.” There is **no teaching or suggestion** in Schmidt of creating the distribution package from a **client-side** shopping cart. Further, it is submitted Schmidt teaches away from the recited client-side operations since fundamental to Schmidt is that access controls are determined server-side—it would be much too easy to circumvent security by allowing client-side control.

Regarding claims 29-31 (previously inadvertently referenced as claims 27-29), there is absolutely no teaching or suggestion in Schmidt of packages that may identify selected ones of electronic and physical goods, **and updates thereto**. As discussed above, Schmidt fails to teach or suggest goods as recited, but notwithstanding that failing, Schmidt does not suggest “updates” to goods as recited. Further the Action fails to specifically address these new claims at all and hence it is believed these claims are allowable for failure of the Office to explicitly show how prior art teaches the recited combination of limitations found in claims 29-31.

Regarding the dependent claims not specifically discussed herein, it is submitted these claims are allowable for at least the reason as depending from base claims. submitted to be allowable for at least the reasons discussed above.

Interview Request

As requested in the previous response, if the foregoing is not deemed persuasive, the Examiner is respectfully requested to contact the undersigned by

telephone to discuss the nature of the claims and documents relied on by the office.

Applicants desire a conference between the undersigned, the Examiner and

Supervisory Examiner Robert Olszewski.


Conclusion

For at least the foregoing reasons, Applicants submit that the rejections have been overcome. Therefore, claims 1-26 and 29-31 are in condition for allowance.

Please charge any shortages and credit any overcharges to our Deposit Account number 02-2666.

Respectfully submitted,

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